

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AXEL CRESPO-GUTIERREZ,

Plaintiff,

vs.

ANA MARIA RESENDIZ RAMIREZ,

Defendant.

Case No. 2:14-cv-00175-GMN-CWH

FINDINGS AND RECOMMENDATION

On February 3, 2014, the Court denied without prejudice Plaintiff's First Motion/Application for Leave to Proceed *In Forma Pauperis* for lack of sufficient information and granted him 30 days to file a new application. See Order #1. Plaintiff submitted a Second Motion/Application to Proceed *in Forma Pauperis* (#3) on March 5, 2014. On March 6, 2014, the Court entered an Order denying without prejudice Plaintiff's Second Motion/Application to Proceed *in Forma Pauperis* (#3). The Court found several discrepancies in Plaintiff's Second Application. Plaintiff reported that he has monthly income of \$10.00 in response to question 12, but listed no income in response to question 1. Plaintiff also attached his inmate banking history. However, Plaintiff failed to use the required form for a prisoner who is requesting *in forma pauperis* status. As a result of the discrepancies regarding Plaintiff's income and expenses, the Court found that there was insufficient information to determine whether Plaintiff is eligible to proceed *in forma pauperis*. Plaintiff was given until April 7, 2014 to file a completed Application to Proceed *In Forma Pauperis* or pay the filing fee. Plaintiff failed to submit a completed Application or pay the \$400.00 filing fee by the April 7, 2014 deadline.

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that this action be **dismissed** for failure to file a completed Application to Proceed *in Forma Pauperis* or pay the filing fee by April 7, 2014.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

Dated this 9th day of April, 2014.



C.W. Hoffman, Jr.
United States Magistrate Judge